

*Chono*

OLC 71-0863

20 August 1971

MEMORANDUM FOR: Acting Director of Security

SUBJECT: Your Memo of 19 August; "Revision of  
Executive Order 10501"

1. The proposal set forth in referent memo would require major changes in our present procedure in dealing with congressional committees. An attempt to implement it would very probably produce an adverse and unfortunate reaction on the part of the chairmen, members, and staff officials of these committees.

2. More specifically:


a. The first sentence of the proposal poses no major problem since, in general, clearances for committee staff members have always been granted on the basis of requests made in the name of the chairmen.

b. The second sentence of the proposal, which would require written permission of the originating agency before classified material could be disseminated or reproduced by congressional committees, would, for all practical purposes, be unenforceable in view of the attitude generally prevailing in the Congress. Congressional committees, and members, usually consult with the originator before publicly disseminating classified information, and in general compromise solutions can be arrived at for the sanitization of the material in question. However, in the last analysis members of Congress almost invariably take the position that they have as much authority, and as much responsibility, to judge the pros and cons of disseminating classified material as do representatives of the executive branch. Moreover, they have usually insisted upon the right to decide for themselves what they should share with their fellow members of the Congress and duly cleared staff personnel.

c. The third sentence in the proposal, which would require the return of all classified information to the originator within a specified time, appears equally unenforceable and unrealistic.

d. Finally, the bulk of classified written material which this Agency provides to congressional committees is for inclusion in the official record of hearings in executive session. This material, upon delivery, becomes the exclusive property of the committee and there is no question of its recovery by the contributing agency.

3. In view of the foregoing, it is suggested that the problem be considered at an early session by the Legislative Interdepartmental Group. STAT

  
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